

Notice of Allowability

Application No.

10/718,498

Examiner

Ryan Christensen

Applicant(s)

DONSKY, ERIC

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/17/2006.
2. ☒ The allowed claim(s) is/are 1-74, 84 and 85.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

Allowable Subject Matter

The primary reason for the allowance of claims 1, 25, 42, 58, and 84 is the inclusion of a chamber configured to receive a lens, the lens configured to carry a certain amount of tear film and a processor for determining changes of electrical properties in the chamber fluid once the lens is placed in the chamber. It is these features found in the claim, as they are claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

U.S. Patent 5,695,631 (Nicolson et al.) discloses a test for contact lenses, where the lenses are placed in a chamber and a change in the fluids conductivity is measured. However, there is no teaching or suggestion that the lens contain tear film. The test conducted in Nicolson is directed to wards determining the ion permeability of the lenses and there is no teaching or suggestion to use the chamber for determining osmolarity of tear film or any other sample.

U.S. Patent 7,017,394 (Sullivan) discloses placing a tear film sample on a chip and determining the osmolarity of the tear film by imparting electrical energy on the sample and measuring the results. There is no teaching or suggestion for a chamber in which a contact lens is placed containing a tear film sample.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Publication 2002/0196429 (Russell et al.) discloses a chamber for inspecting contact lenses.

U.S. Patent 4,951,683 (Davis) discloses a device for measuring the conductance of tear film. The device contains a plurality of electrodes and suggests it can be in the form of a contact lens.

U.S. Patents 6,544,193; 6,423,001; and 6,120,460 (Abreu et al.) disclose a contact device for measuring parameters in a subject's eye and suggest osmolarity can be monitored.

U.S. Patent 4,123,701 (Josefsen et al.) discloses a chamber with electrodes for measuring samples of fluids.

Conclusion

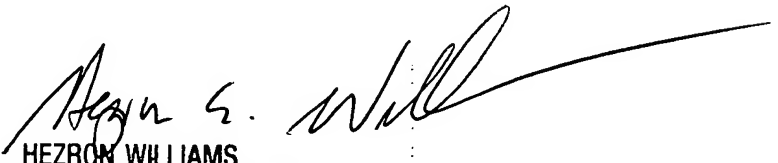
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Christensen whose telephone number is 571-272-2683. The examiner can normally be reached on Monday - Friday, 8am - 5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RC


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800